



April 17, 2000

Mr. James L. Hall
Assistant General Counsel
Texas Department of Criminal Justice
P.O. Box 4004
Huntsville, Texas 77342

OR2000-1511

Dear Mr. Hall:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 134143.

The Texas Department of Criminal Justice (the “department”) received a request for copies of certain department guidelines and administrative directives. You claim that the requested information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

The Seventy-sixth Legislature amended section 552.022 of the Government Code to provide several categories of information that are not excepted from required disclosure unless they “are expressly confidential under other law.” In pertinent part this section now reads:

(a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

...

(10) a substantive rule of general applicability adopted by or issued by an agency as authorized by law, and a statement of general policy or interpretation of general applicability formulated and adopted by an agency[.]

The submitted documents are department policies and procedures for evidence handling, crime scene protection, and the prevention of staff injuries resulting from offender aggression. We believe that these documents are made public by section 552.022(a)(10) of the Government Code. The exception you raise, section 552.103, is a discretionary exception and is, therefore, not other law that makes information confidential. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (explaining that section 552.103 is not a confidentiality provision of the Public Information Act), 200 at 3 (1978) (stating that information specifically made public by statute is not excepted from disclosure under statutory predecessor to section 552.103). Therefore, the submitted information must be released.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in cursive script that reads "Kathryn S. Knechtel".

Kathryn S. Knechtel
Assistant Attorney General
Open Records Division

KSK/ljp

Ref: ID# 134143

Encl. Submitted documents

cc: Ms. Maria M. Linden
Attorney at Law
P.O. Box 151122
Arlington, Texas 76015
(w/o enclosures)